



**U S Army Corps  
of Engineers**  
Huntington District

# Public Notice

In reply refer to Public Notice No.

Issuance Date: **June 4, 2007**

**LRH-2007-100-GMR**

Stream:

Closing Date: **July 5, 2007**

**UNTri Taylor Creek**

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

**ATTN: CELRH-OR-F** Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

**PUBLIC NOTICE:** The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

**REGULATORY PROGRAM:** Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

**SECTION 10:** The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

**SECTION 404:** The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

**TO WHOM IT MAY CONCERN:** The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency to act on Section 401 Water Quality Certification for the following application.

**APPLICANT:** Silverman and Company, Inc.  
9545 Kenwood Road, Suite 401  
Cincinnati, Ohio 45242

**LOCATION:** The proposed project is located on unnamed tributaries to Taylor Creek within a 67-acre parcel of land southwest of Harrison Avenue and Filview Circle in Green Township, Hamilton County, Ohio. Latitude 39° 10' 12", Longitude 84° 38' 38".

**DESCRIPTION OF PROPOSED WORK:** The applicant proposes to place fill material in waters of the United States in conjunction with the construction of Legacy Place retail development. The purpose of the work is to create a level building site for the construction of an open air shopping center that would include retail shops, dining establishments and associated parking and access roads. Approximately 2,425 cubic yards of native soil obtained on-site would be placed into a total of 1,752 linear feet of four ephemeral tributaries and 2,933 linear feet of two intermittent tributaries to Taylor Creek. Total impacts to waters of the U.S. would be 0.62 acres, located within the Lower Great Miami Watershed (HUC 050800020). Plans of the proposal are attached to this notice.

**COMPENSATORY MITIGATION PLAN:** To offset stream impacts associated with the project, the applicant proposes both on-site and off-site mitigation. On-site, the applicant proposes to construct 2,600 linear feet of intermittent stream with a forested riparian buffer of widths varying between 40 to 75 feet. The stream would be constructed with meanders and riffle-pool complexes along the southern and western edge of the proposed development, beginning at the upper reach of the intermittent stream referred to as "stream 3".

Off-site mitigation projects are proposed at four sites located within Green Township, Hamilton County, within the Lower Great Miami Watershed and the adjacent Middle Ohio-Laughery Watershed (HUC 05090203). Within the Lower Great Miami Watershed, the applicant proposes to enhance 166 linear feet of an intermittent unnamed tributary to Briarly Creek north of Epley Road, by restoring a 0.23-acre floodplain through the removal of an existing concrete wall abutting the stream. Non-native invasive species, including honeysuckle, would be removed along the banks and replaced with tree plantings and wooded wetland seeding. Three projects are proposed within the adjacent watershed. Project 1: the applicant proposes to restore 945 linear feet of an intermittent unnamed tributary of West Fork Mill Creek located within Blue Rock Park through the installation of riffles, the removal of existing grouted riprap along the right bank and the establishment of a 3:1 slope in its place. Pre-vegetated coir fiber logs and erosion control blankets would be installed for stabilization. The right bank would be planted with prairie seed mix and a 30-foot forested riparian buffer would be established. Project 2: the applicant proposes to restore approximately 297 linear feet of an ephemeral unnamed tributary to Muddy Creek and create 0.26 acre of adjacent forested wetland. The project is located on an existing pond north of Werk Road. A water control structure would be added to an existing storm water structure to lower current water levels and allow for periodic inundation of the area. The stream channel would be reconstructed incorporating meanders and natural river rock. The adjacent area would be planted with native trees and shrubs and seeded with emergent wetland species to create a forested wetland buffer. Project 3: the applicant proposes to restore 190 linear feet of an intermittent unnamed tributary to Muddy Creek south of Werk Road. A collapsed corrugated metal pipe would be removed and the stream channel reconstructed to match upstream contours. A 30-foot wide forested riparian buffer would be established along both banks. It is noted that this proposed mitigation is open to comment and subject to change. The Corps will make a determination of appropriate mitigation upon review of all submitted information.

**WATER QUALITY CERTIFICATION:** A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the Ohio Environmental Protection Agency.

**HISTORIC & CULTURAL RESOURCES:** The National Register of Historic Places has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be furnished to the State Historic Preservation Office for their review. Comments concerning archaeological sensitivity of the project area should be based on collected data.

**THREATENED & ENDANGERED SPECIES:** The project is located within the known or historic range of the following candidate, threatened, or endangered species:

Indiana bat (E)  
running buffalo clover (E)  
sheepnose mussel (C)

To determine if the proposed project would have any affect on threatened or endangered species, the applicant has consulted the United States Fish and Wildlife Service (USFWS). Information provided by the USFWS in a letter dated January 9, 2007 indicates that habitats suitable for the sheepnose mussel are not present, therefore the Huntington District has determined that the project would have no effect on the sheepnose mussel. The project site may contain habitat suitable for the Indiana bat and running buffalo clover. The applicant proposes to conduct further habitat assessments and surveys in coordination with the USFWS. The Huntington District has determined that the project may affect these species or designated Critical Habitat. This public notice serves as a request to the USFWS for any additional information they may have on whether any federally listed or proposed species may be present in the area which would be affected by the activity. This information will be used to assist the Huntington District in making final effect-determinations pursuant to Section 7(a)(2) of the Federal Endangered Species Act of 1973 (as amended).

**PUBLIC INTEREST REVIEW AND COMMENT:** Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are


conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

**SOLICITATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

Denise Marmer  
U. S. Army Corps of Engineers, Huntington District  
ATTN: CELRH-OR-FN Public Notice No. LRH-2007-100-GMR  
502 Eighth Street  
Huntington, West Virginia 25701-2070

Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Ms. Denise Marmer of the North Regulatory Section, Cincinnati Regulatory Field Office at 513-825-4518.

  
Ginger Mullins, Chief  
Regulatory Branch

(O) (L)



Figure 2: USGS 7.5" Topographic Map  
 Proposed Legacy Place  
 Silverman & Company  
 Green Twp., Hamilton Co., OH  
 Addyston Quad



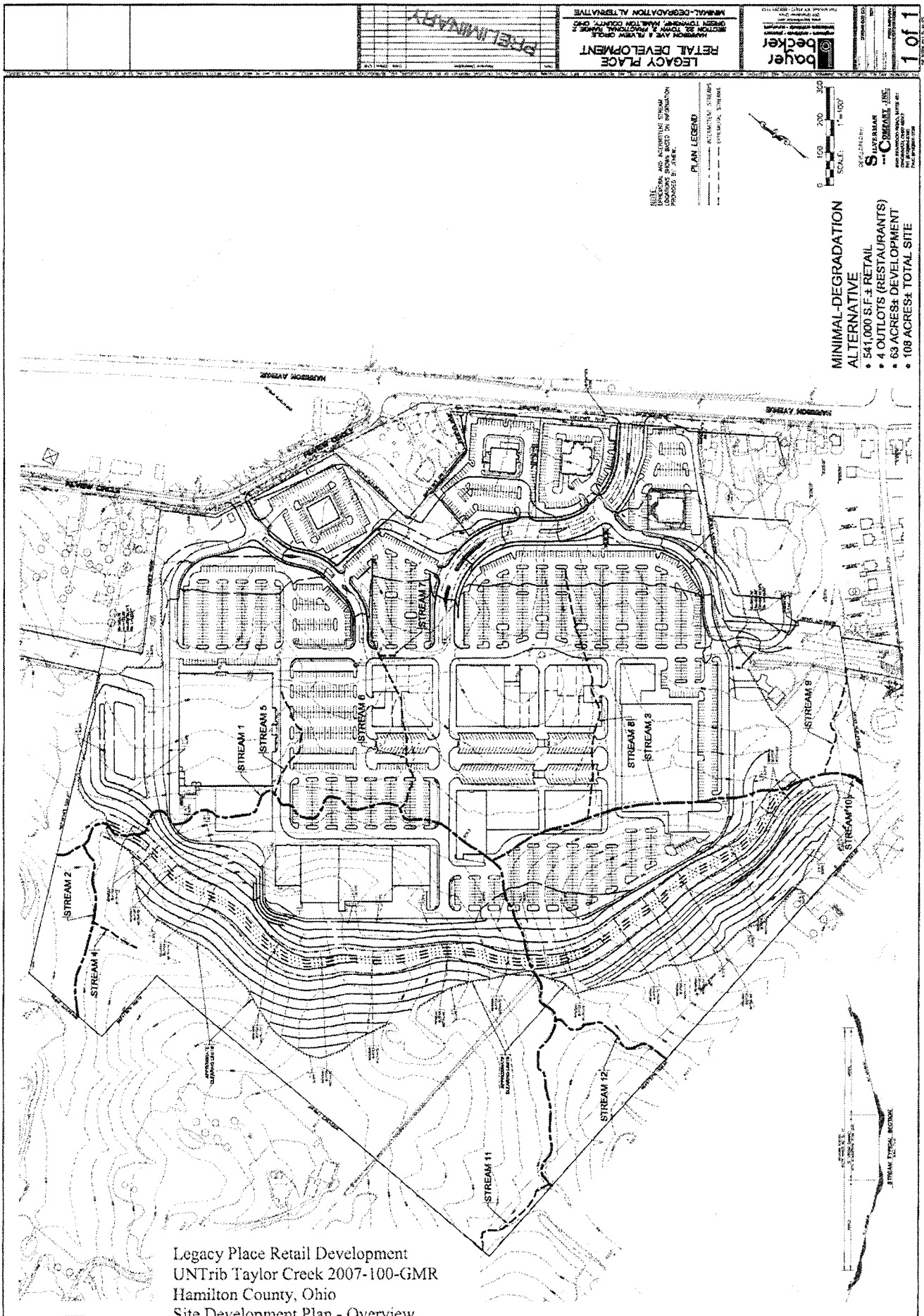
**JFNew**

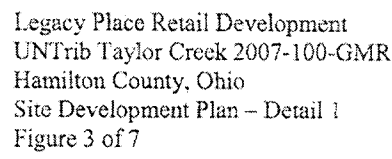
11156 Lushek Drive  
 Cincinnati, OH 45241  
 Phone: 513-489-2402  
 Fax: 513-489-2404  
[www.jfnew.com](http://www.jfnew.com)

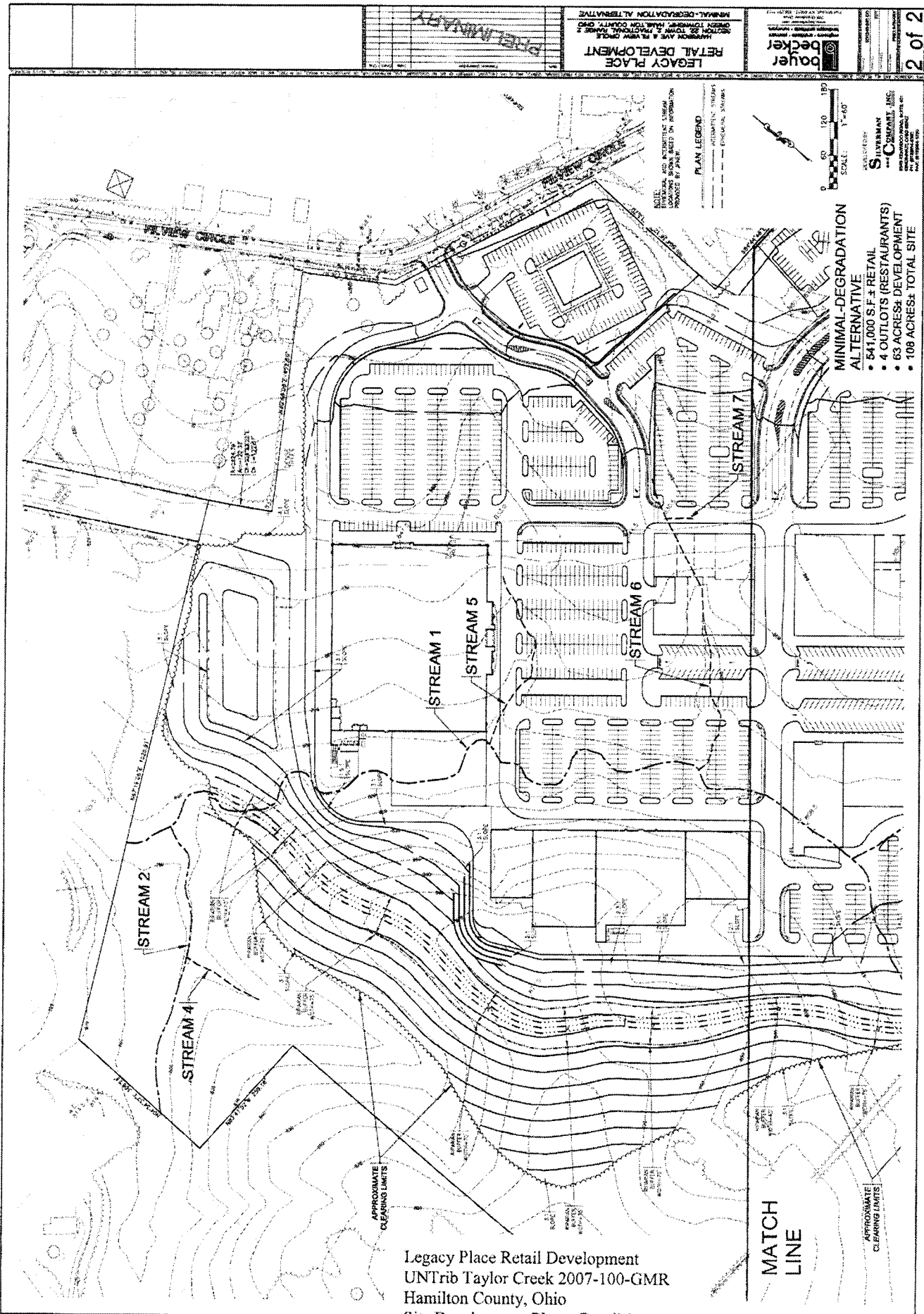
0 250 500 1,000 1,500 2,000 Feet

May 2007  
 File No. 04-10-61

Legacy Place Retail Development  
 UNtrib Taylor Creek 2007-100-GMR  
 Hamilton County, Ohio  
 Project Location Map  
 Figure 1 of 7

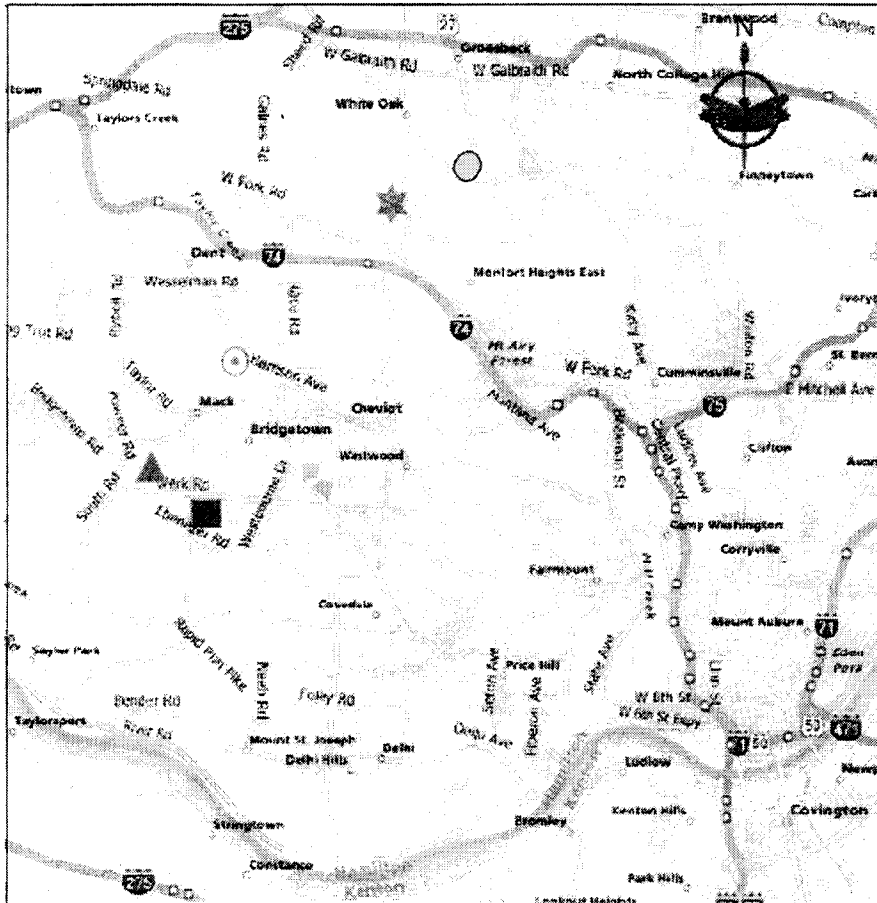








# Mitigation



## VICINITY MAP

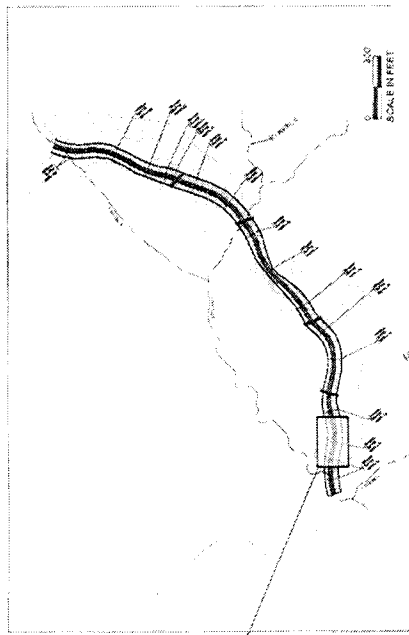
### APPROXIMATE PROJECT LOCATION

- Blue Rock Park Off-Site Mitigation Site
- ▲ Werk Road Pond Off-Site Mitigation Site
- Lutheran Church Off-Site Mitigation Site - Werk Road
- ★ Green Township Senior Center Off-Site Mitigation Site - Epley Road
- Legacy Place On-Site Mitigation Site

Legacy Place Retail Development  
 UNtrib Taylor Creek 2007-100-GMR  
 Hamilton County, Ohio  
 Mitigation Sites Location Map  
 Figure 5 of 7

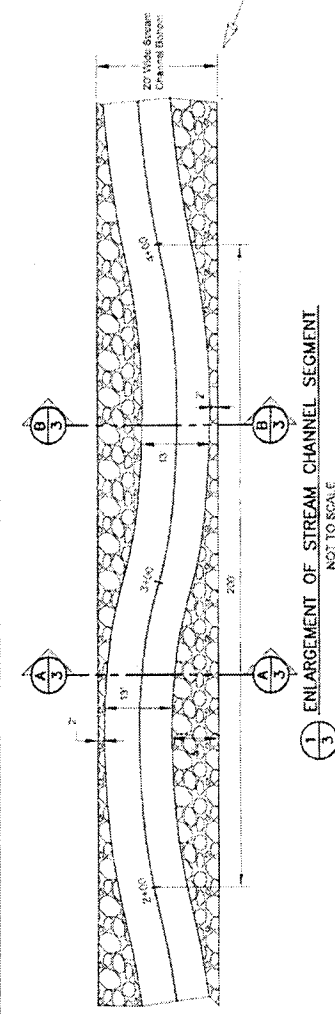


Legacy Place Retail Development  
 UNTrib Taylor Creek 2007-100-GMR  
 Hamilton County, Ohio  
 Mitigation Cross Sections  
 Figure 7 of 7

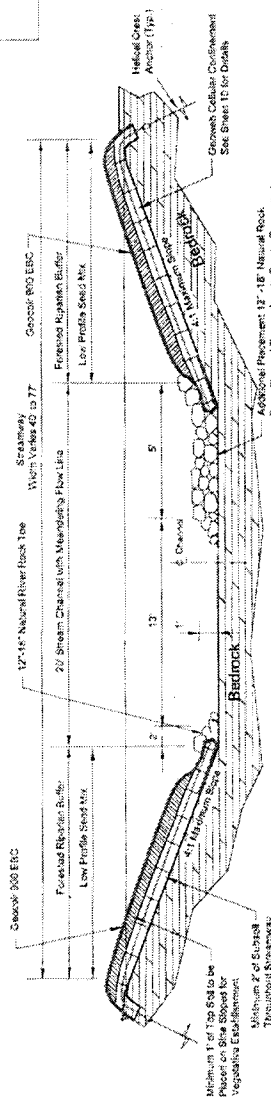


LOCATION PLAN

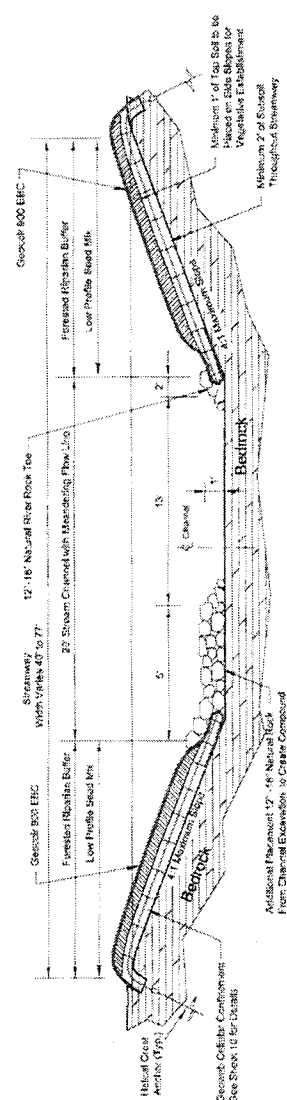
- NOTES:**
- See Sheet B for On-Site Mitigation Planting List
  - Riparian Buffer Widths Shown were Established by Survey Booklet, Sites Reference Drawing 000048-000 CD Dated 2-5-07
  - Stream Locations Shown are Based on Information Provided on 000048-000 and Updated 000048-000 Per Aerial Imagery
- LEGEND**
- Concretized Low Flow Channel
  - Compound Channel Shift
  - Proposed Stream Channel
  - Centerline with 100 ft Stationing
  - Existing Stream
  - Topsoil
  - Subsoil



1 ENLARGEMENT OF STREAM CHANNEL SEGMENT  
 NOT TO SCALE



2 CROSS SECTION OF STREAM CHANNEL BANK TREATMENT  
 NOT TO SCALE



3 CROSS SECTION OF STREAM CHANNEL BANK TREATMENT  
 NOT TO SCALE

PERMIT SUBMITTAL DRAWING  
 NOT APPROVED FOR CONSTRUCTION